

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3923 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KANUBHAI PRATAPSINH PARMAR

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA for Petitioner

MR SS PATEL AGP for Respondent No. 1

MR BRAHMBHATT for MR BHARAT T RAO for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 7th May, 1999, made by the District Magistrate, Rajkot, under the powers conferred upon him

under sub-section (2) of section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as 'the Act').

The only ground on which the impugned order has been challenged is that the representations made to the District Magistrate and the Central Government have not been disposed of without undue delay. It is submitted that the representation dated 13th May, 1999, made to the District Magistrate was received by the District Magistrate on 17th May, 1999, after the order of detention was confirmed by the State Government. The District Magistrate ought to have forwarded the said representation immediately to the State Government, however, the same was not forwarded till 27th May, 1999. Further, the representation to the Central Government was received by it on 14th May, 1999, and it had called for para-wise comments from the State Government on 17th May, 1999. The said comments were sent on 7th June, 1999, and the representation was rejected on 8th June, 1999 i.e. the State Government has taken unduly long time of nearly 20 days for preparation of the para-wise remarks and the said period has not been explained in the affidavit made on behalf of the State Government. On perusal of the said affidavit, I do find that the time taken by the District Magistrate in forwarding the representation made by the petitioner, has not been explained. Similarly, the State Government also has not explained the time taken for preparation of the para-wise comments. In view of the unexplained delay and the prevailing judicial pronouncements, the petition is required to be allowed on this ground alone.

Petition is, therefore, allowed. The impugned order dated 7th May, 1999 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI